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**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**OAKLAND DIVISION**

IN RE COLLEGE ATHLETE NIL  
 LITIGATION

**Case No. 4:20-cv-03919-CW**

**STIPULATION AND ~~PROPOSED~~ ORDER**  
**AS MODIFIED MODIFYING SEALING**  
**PROCEDURES RELATING TO CLASS**  
**CERTIFICATION BRIEFING AND**  
**RELATED DOCUMENTS**

Hon. Claudia Wilken

Pursuant to Northern District of California Local Rule 7-12, Plaintiffs in the above-captioned action and Defendants National Collegiate Athletic Association, Atlantic Coast Conference, The Big Ten Conference, Inc., The Big 12 Conference, Inc., Pac-12 Conference, and Southeastern Conference (collectively, “Defendants,” and together with Plaintiffs, the “Parties”), by and through their respective undersigned counsel, submit the following Stipulation seeking an order adjusting the sealing procedures for the Parties’ class certification briefing papers and related documents as set forth in Local Rule 79-5:

WHEREAS, the Court: (i) entered the Parties’ stipulation and protective order that largely incorporated the six (6) confidentiality designations in *In re NCAA Athletic Grant-in-Aid Cap Antitrust Litigation* (Case Nos. 4:14-md-2541-CW, 4:14-cv-2758-CW) (“*Alston*”) (“Confidential Information”; “Highly Confidential – Counsel Only”; “Highly Confidential NCAA Member Financial Data”; “Conference Strictly Confidential – Outside Litigation Counsel Only”; “Network Strictly Confidential – Outside Litigation Counsel Only”; “Highly Confidential Billing Records – Outside Counsel Only”) (see ECF Nos. 136–37); (ii) entered the Parties’ supplemental stipulation that created two (2) new confidentiality designations (“House CSC – Outside Litigation Counsel Only”; “House NSC – Outside Litigation Counsel Only”) (see ECF Nos. 147–48); and (iii) entered the Parties’ second supplemental stipulation that addressed protections for information produced by NCAA member schools, colleges, universities or institutions (see ECF Nos. 180–81) (collectively, the “Protective Orders”);

WHEREAS, pursuant to the Court’s Order Granting Plaintiffs’ Motion to Modify Case Schedule dated April 8, 2022, the Plaintiffs will file their class certification motion and supporting expert reports on October 21, 2022; the Defendants will file their class certification opposition and supporting expert reports on February 10, 2023; and Plaintiffs will file their class certification reply and expert rebuttal report on April 14, 2023. See ECF No. 189;

WHEREAS, the Parties have sought and obtained significant discovery, including substantial non-party discovery that is subject to protection under the Protective Orders, to facilitate the class certification briefing and anticipate that several administrative motions to seal would be filed if the Parties strictly complied with the procedures set forth in Local Rule 79-5;

WHEREAS, the Parties anticipate that numerous Party and non-party declarations in support of any forthcoming administrative motions to seal will need to be filed, and that compliance with the procedures and timing set forth in Local Rule 79-5 will impose a substantial burden on non-parties to file multiple declarations to protect the same or similar information, and on the Court to review and evaluate such duplicative filings;

WHEREAS, the Parties previously stipulated that where information designated “Network Strictly Confidential – Outside Counsel Only” in *Alston* or “House NSC – Outside Litigation Counsel Only Information” is filed, the filing party shall provide written notice to each applicable “Network Intervenor” or “Network” (collectively, “Network Entity”) at least five (5) business days in advance of filing an administrative motion to seal the designated material. *See* ECF Nos. 136-3, 137, 148; and

WHEREAS, the Parties agree that a single combined administrative motion to seal covering all sealing requests (“Omnibus Sealing Motion”) would be the most efficient way for the Court to handle all sealing issues arising from the Parties’ class certification briefing papers and related documents, and that, upon order of this Court, such Omnibus Sealing Motion shall supersede any interim sealing motions that would ordinarily accompany the Parties’ opening brief, opposition brief, reply brief, and any associated documents.

THEREFORE, the Parties hereby agree and stipulate that, upon order of this Court:

- The Parties shall file redacted versions of their class certification briefs and related documents on or before October 21, 2022, February 10, 2023, and April 14, 2023, without accompanying interim motions to seal;
- Within three (3) days of each filing, the filing Party shall identify for each non-filing Party the portions of the filing Party’s brief that contain information designated as “Conference Strictly Confidential – Outside Litigation Counsel Only”; “Network Strictly Confidential – Outside Litigation Counsel Only”; “Highly Confidential Billing Records – Outside Counsel Only”; “House CSC – Outside Litigation Counsel Only”; or “House NSC – Outside Litigation Counsel Only”;

- 1 • No later than five (5) days from the last filing (currently, April 19, 2023), each Party shall  
2 notify any Network Entity of the inclusion of any information designated “Network Strictly  
3 Confidential – Outside Counsel Only” or “House NSC – Outside Litigation Counsel Only  
4 Information” in any of that Party’s class certification filings;
- 5 • No later than fourteen (14) days from the last filing (currently, April 28, 2023), the Parties  
6 shall file an Omnibus Sealing Motion, and, consistent with Local Rule 79-5(f)(2), shall  
7 serve the Omnibus Sealing Motion on all Non-Party Designating Parties. The Parties shall  
8 also notify any applicable Non-Party Designating Parties of the procedures set forth in  
9 Local Rule 79-5(f)(3) and as modified herein; and
- 10 • No later than fourteen (14) days from the filing of the Omnibus Sealing Motion (currently,  
11 May 12, 2023), any Designating Party must file a statement or declaration in support of  
12 sealing, as set forth in Local Rule 79-5(f)(3).  
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Dated: October 11, 2022

Respectfully submitted,

HAGENS BERMAN SOBOL SHAPIRO LLP

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**ATTESTATION PURSUANT TO CIVIL LOCAL RULE 5-1(i)(3)**

Pursuant to Civil Local Rule 5-1(i)(3), the filer of this document attests that concurrence in the filing of this document has been obtained from the signatories above.

/s/ Jeffrey L. Kessler  
JEFFREY L. KESSLER



~~PROPOSED~~ ORDER **AS MODIFIED**

The parties must file the sealed versions of the documents at the time they file the documents in redacted form, using the ECF Event for “Documents e-Filed Under Seal,” which will make them electronically available to the Court.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: October 12, 2022



HON. CLAUDIA WILKEN  
UNITED STATES SENIOR DISTRICT JUDGE